IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2006

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THE HONOURABLE MR. JUSTICE P.SATHASIVAM

C.R.P.(PD)No.944 of 2006
& MP No.1 of 2006

A.Subashchandran .. Petitioner

Vs.

ICICI Bank Ltd.,
rep. by its Branch Manager,
Branch office, Erode. .. Respondent

Civil Revision Petition under Article 227 of the Constitution of India against the order dated 02.09.2005 made in I.A.No.946 of 2004 in O.S.No.652 of 2000 on the file of the First Additional Subordinate Judge, Erode.

For petitioner : Mr.V.Raghavachari
For respondent : Mr.V.V.Giridhar

ORDER

The above Civil Revision petition is directed against the order of the learned First Additional Subordinate Judge, Erode, dated 02.09.2005 made in I.A.No.946 of 2004 in O.S.No.652 of 2000, in and by which, the learned Judge, after satisfying himself that there is no material to declare the petitioner as "pauper", has dismissed the petition.

2. Heard both sides.

3. The defendant is the petitioner. It is not in dispute that even in the year 2000, when the suit was laid, the petitioner-defendant has filed a written statement and admittedly no specific claim viz., counter claim was pleaded. As rightly pointed out by the learned counsel for the respondent as well as as observed by the Court below, the petitioner-defendant has filed this petition only after four years. Added to this, though the petitioner claims that he is not having any property or income to pay Court fee and he is a pauper, the materials available before the Court below amply show that by pledging share certificates to the value of Rs.3,00,000/-, he secured a loan of Rs.1,95,000/-. It is also seen that he has invested the money in various shares of the company and also pledged the same and secured loan. The order of the Court below shows that all these aspects have been admitted by the petitioner. In

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addition to the same, it is further seen that the Consumer Forum has granted a sum of Rs.5,000/- towards compensation and Rs.1,000/- towards costs and the bank was directed to pay the said amount to the petitioner. The Court below has also noted that the petitioner has credited a sum of Rs.60,000/- to his account by way of sale of shares. Considering all these factual aspects and also of the fact that though the petitioner-defendant has filed the written statement in the year 2000, he seeks permission to file counter claim after a period of four years and in view of the factual findings by the Court below, I do not find any valid ground for interference. On the other hand, I am in agreement with the conclusion arrived at by the Court below and I hold that the petitioner-defendant has failed to substantiate his claim to declare as "pauper". Consequently, the revision fails and the same is dismissed. No costs. M.P.1 of 2006 is also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

1.The Ist Additional Subordinate Judge, Erode.

2. The Section Officer, VR Section, High Court, Madras.

+ 1 CC To Mr. V.Raghavachari, Advocate SR NO. 57358

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